

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP(C) 282/2020
CM(4823/2023) CM(504/2020)**

Taxi Sumo Stand No. 1 Mahndi Kadal

... Petitioner/Appellant(s)

Through: Ms. Saima Mehboob, Advocate

V/s

UT of J&K and others

... Respondent(s)

Through: Mr. Illyas Laway, Advocate
Mr. Rais ud Din Ganai, DAG

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER
31-05-2024

Oral

1. Petitioner herein has maintained the instant petition through its President under Article 226 of the Constitution seeking reliefs detailed out in the petition on the premise that it is providing transportation facility to the general public at Anantnag since 1962 operating from a piece of land measuring 17 marlas having vested unto it pursuant to a mutation attested thereto and is also registered by the competent authority which registration stands renewed from time to time. A lease agreement is also stated to have been entered into by the petitioner Sumo Stand with respondent 2 qua the land in question on payment of initial rent of

Rs.58,080 with 10% increase thereof having been deposited without any fail and that the operation of the said Sumo Stand came to be regulated by the respondents in the year 2017 providing for operating the same through western gate of the Sumo Stand opening on the Bypass while closing down the eastern gate upon a unanimous decision in order to avoid traffic jams in the town and that the respondent 3 despite that arrangement, issued impugned order dated 3.2.2020 calling upon the petitioner to shift the Sumo Stand to Mahandi Kadal (New Bypass) on the new earmarked piece of land adjacent to the police station Saddar Anantnag.

2. The petitioner being aggrieved of the said order dated 3.2.2020 has filed instant petition on multiple grounds fundamentally on the ground that the impugned order is arbitrary in nature having been issued at the back of the petitioner.
3. **Objections** to the petition have been filed by the respondent 4 wherein it is being stated that the impugned order came to be issued by respondent 3 with the consent of the District Administration owing to the heavy traffic jams being witnessed in and around the petitioner Sumo Stand causing inconvenience to the public in general beside choking arterial roads in and around the petitioner Sumo Stand in particular the road leading to the District Hospital Anantnag/Associated Hospitals of Government Medical College, Anantnag as also

the roads leading to the Districts of Shopian, Kulgam and Pulwama. It is being further submitted that the petitioner Sumo Stand came to be established in the year 2008 and a registration for its operation was consequently accorded, which registration, however, expired on 21.12.2019 whereafter the said registration was not renewed as a consequence whereof the vehicles are being operated from the said stand without any authority. It is being further stated in the objections that on account of the aforesaid reasons and in fact in public interest, the petitioner Sumo Stand was ordered to be relocated and notwithstanding the expiry of its registration came to be allotted land measuring one kanal at Mahandi Kadal barely 100 meters away from the original Sumo Stand and that the petitioner Sumo Stand instead of shifting over to new place has occupied the new stand besides continuing to operate from the old stand.

Heard learned counsel for the parties and perused the record.

4. While making his submissions, the counsel for the petitioner would reiterate the contentions raised and grounds urged in the petition and would pray for grant of reliefs sought in the petition, whereas on the contrary counsel for respondent 4 would insist for the dismissal of the petition more particularly in the light of the judgement of a Division Bench of this court passed in case titled as “**Kashmir Consumer Welfare**

Forum Vs. Commissioner Transport and Others” being OWP 458/2003, wherein multiple directions/orders have been passed requiring the official respondents to regulate the flow of traffic in the erstwhile State of Jammu and Kashmir and take all necessary steps and measures in this regard.

5. Though the objections have not been filed by the respondents 1 to 3 to the petition yet the counsel appearing for respondents 1 to 3 during the course of hearing adopted the objections filed by respondent 4 to the petition.
6. It has not been disputed by the petitioner that the official respondents provided an alternative piece of land for the Sumo Stand in question, which is approximately hundred metres away from the original stand. It is also not being denied by the petitioner that the registration of the original Sumo Stand stands expired on 31.12.2019 for operating from the old stand.
7. Admittedly the issue raised in the instant petition by the petitioner pertains to a policy matter wherein the scope of interference by this court under Article 226 is limited as has been held by the Apex Court in case titled as **“Federation of Railway Officers’ Association Vs. Union of India”** reported in (2003) 4 SCC 289 wherein it has been, *inter alia*, held that unless the policy or action is inconsistent with the Constitution and the laws or is arbitrary or irrational or there

is abuse of power, the court will not interfere with such matters.

8. Having regard to the aforesaid position of law inasmuch as the nature of issue(s) raised at in the instant petition being relating to the policy matter, this court is not inclined to display indulgence and to exercise discretion under Article 226 of the Constitution. Resultantly, the petition fails and is dismissed. Interim direction, if any, shall stand vacated.

(JAVED IQBAL WANI)
JUDGE

Srinagar
31-05-2024
N Ahmad

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

